

STATE ALLOCATION BOARD  
IMPLEMENTATION COMMITTEE  
August 1, 2003

**BOND ACCOUNTABILITY**

**BACKGROUND**

Based on concerns expressed over a school district placing funds received from the State Allocation Board (SAB) directly into the District's General Fund without reimbursing the Restricted County School Facilities Fund, the Office of Public School Construction (OPSC) requested an opinion from the Attorney General (AG). As a part of that specific question, the AG was asked to consider the position by the OPSC/SAB that reimbursement of eligible project expenditures satisfies all legal requirements pertaining to the use of State bond funds. The AG was also asked to clarify the position by the OPSC/SAB that once reimbursement of eligible project expenditures occurs, the funding loses its identity as State bond funds and is no longer under the control or authority of the SAB.

The AG opined that the OPSC/SAB positions met the requirements of State law but indicated concern that the transfer of State bond money directly into a district's General Fund, without proper documentation, could violate the intent of the local and State bond funds. Based on this concern, the AG recommended that current SFP regulations be amended to clarify accounting responsibilities and to seek advice of tax counsel.

The OPSC subsequently hired an independent tax counsel to review a proposed "bond accountability" regulation, existing law and SFP regulations to ensure that the tax-exempt status of the State and local bonds is not jeopardized.

**DISCUSSION**

The primary bond accountability issue is created by school districts that utilize local bonds to pay for the local and State project funding shares and do not refund the local bond for the State's share when State funding is provided to the district. This type of scenario may have tax-exempt implications for both the State and local bonds. Based on discussions with the independent tax counsel, her primary concerns relate to the aforementioned issue and ensuring that State and local money is not doubled up on the same expenditure and ultimately transferring State bond money to non facility related (operational) funds. A draft regulation is currently under review that will endeavor to address both of these issues. When the regulation has been finalized it will be presented to the SAB Implementation Committee for further discussion.